

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CRM-M-19540-2023 (O&M)
Date of decision : 03.05.2023

Sardara Singh and others

...Petitioners

Vs.

State of Haryana and others

...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK MANCHANDA

Present: Mr. Simranjeet Singh, Advocate
for the petitioners.
Mr. Bhupender Singh, DAG, Haryana.

DEEPAK MANCHANDA, J.(Oral)

CRM-19943-2023

This application has been filed under Section 482 Cr.P.C for granting the permission to place on record copy of the challan as Annexure P-9.

Vide order dated 20.04.2023, learned counsel for the petitioner sought time to place on record the copy of challan as investigation has already been completed in the present case.

For the reasons mentioned in the application, same is allowed and Annexure P-9 is taken on record.

Main case

This petition has been filed under Section 482 of Cr.P.C. seeking quashing of FIR No.0319 dated 10.09.2021 under Sections 147, 149, 430, 447 and 506 Indian Penal Code, 1860 (Annexure P-1) registered at Police Station Dabwali Sadar, District Sirsa with the further prayer for staying the proceedings before the trial Court till the pendency of the present petition.

As per the case of the prosecution, present FIR was registered on the

statement of complainant, namely, Parvinder Bishnoi (respondent No.4), wherein it was alleged that petitioners tried to kill respondent No.4/complainant with tractors and illegally demolished the Khaal built for irrigation to the land which is owned by complainant, therefore, the tractors and weapons are to be recovered and the life and property of the complainant be protected. It was further alleged that in the year 2016, Sardara Singh, Deep Pandit and others had demolished the irrigation ditch of the land owned by the complainant and his family, but after intervention of police, petitioner No.1-Sardara Singh apologized and the matter was compromised. In the year 2019, when the Panchayat started the work of laying underground water pipes for irrigation of canal water in the land owned by the complainant in front of the school, at that time, Ram Singh Kuldeep Singh, Guradita Singh, Happy @ Ramesh etc. closed the pot holes for laying underground pipes with the help of JCB machine and the work of underground pipe line is still as it is. On 07.09.2021, at about 9.45 a.m. brother of the complainant, namely, Naresh Kumar went to his farm to take care of crops and then Kuldeep Singh, Ghatta Singh, Happy, Jagmeet Singh and Raju, who plowed behind his tractor and others, who were armed with sticks, gandasa started trying to pull down the irrigation ditch of the complainant and his family using tractors. When the incident was brought in the knowledge of the complainant by his brother, then complainant came on the spot along with his son and in front of them all accused persons demolished the khaal with their tractor and threatened the complainant and his brother to move away or they will kill both of them with a tractor. Meanwhile, someone called the police and when the police officials reached, they ordered to let the khaal be left the way it was and they will proceed in accordance with law. On these broad allegations, FIR was registered.

Learned counsel for the petitioners contends that petitioners have been falsely implicated in the present FIR as it is evident from the statement of complainant that petitioners came along with their tractors to clear the Gair Mumkin

Rasta/common passage and not to demolish the water course/khaal, who were not armed with any deadly weapons and neither caused any harm to the life of respondent No.4-complainant. He submits that even no such attempt was made on the spot and there was no eruption of any fight or heated arguments between the complainant and the petitioners. He contends that as far as Section 430 IPC is concerned, the petitioners along with other villagers were carrying out the work of cleaning the common passage/Gair Mumkin Rasta as per the demarcation report, which was forcefully possessed by the complainant and none of the petitioners or villagers interrupted the supply for irrigation water, nor demolished the water course as alleged by the complainant. He further argues that as per judgment dated 11.10.2021 (Annexure P-5) passed by the Sub Divisional Canal Officer, Water Supply, Sub Division Khuyian Malkhana, held that the khaal was in working condition and cultivation could be carried out. According to him, as per the demarcation reports dated 30.07.2021 and 21.10.2021 (Annexures P-3 and P-7, respectively), the land of the Gair Mumkin Rasta and water course comes within the adjoining agricultural land of the complainant/respondent No.4, therefore, he is having illegal possession of the land of the Gair Mumkin Raasta as well as of the water course and rather it is complainant and his associates, who interrupted the work of the petitioners and other villagers, who were clearing the common passage/gair mumkin rasta. He submits that present FIR in question has been registered against the petitioners without knowing the facts of the case and without considering the representation moved by the petitioners and other villagers on 19.07.2021 to Block Development Panchayat Officer (BDPO) and nor the police considered the demarcation report presented by the villagers, which was handed over on the spot, which shows that the complainant has forcefully possessed the common land of the village for his personal use. He submits that present FIR is nothing, but misuse of process of law, therefore, same deserves to be quashed.

Having heard the learned counsel for the petitioners.

Keeping in view of the overall facts and circumstances of the case where the investigation has been completed and challan stands presented, this Court is not inclined to invoke its extraordinary powers under Section 482 Cr.P.C. for the purpose of quashing the impugned FIR. However, petitioners can raise the plea before the trial Court at the time of framing of charges, which have not yet been framed and same be dealt with in accordance with the law.

Consequently, the present petition is dismissed.

(DEEPAK MANCHANDA)
JUDGE

03.05.2023
Ajay Goswami/vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No